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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Kuriacose Joseph

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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

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EXAMINER

IDOWU, OLUGBENGA O

ART UNIT

PAPER NUMBER

2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/903,448	<b>Applicant(s)</b> JOSEPH ET AL.	
	<b>Examiner</b> OLUGBENGA O. IDOWU	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 68-143 and 246 - 263 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 68-143 and 246 - 263 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/19/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 68 – 143 and 246 - 263 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 78, 82 – 83, 85 – 94, 97 – 104, 106 – 116, 120 – 121, 123 – 132, 135 – 142 and 246 - 263 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin, patent number: 5 583 560 in view of Rhoades, patent number: 5 181 107.

As per claims 68, 87, 101, 106, 125, 139, 246- 248 and 253 – 263, Florin teaches facilitating ordering an item using an interactive television system including at least one client and at least one server (interactive system with provider and user, col. 8, lines 6 - 17), the method comprising:  
using the server to provide to the client data, some of which represents video and some of which represents a computing application, to the client (providing videos and interactive data to clients, col. 8, lines 52 - 54);

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at the client, causing the video to be displayed, and executing the computing application to cause display of interactive information (receiving and displaying video and interactive data, col. 8, line 61 – col. 9, line 1);  
using one or more of the displayed video and the interactive information to show and/or describe an item to a television viewer (commercials, col. 23, lines 54 - 56);  
enabling the viewer to select the item by interacting with the client (pressing the select button on the remote control, col. 23, lines 56 - 61); and

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in response to the viewer interaction, causing an order for the item to be placed (ordering product, col. 24, lines 8, lines 32 - 34).

Florin does not teach the transmission comprising executable code.

In an analogous art, Rhoades teaches the transmission comprising executable code (Transmission containing software, col. 2, lines 22 – 31, col. 7, line 57 – col. 8, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Florin's ordering system by including a system that transmits executable codes for the advantages of updating or upgrading user equipments.

As per claims 69, 88, 107 and 126, The combination of Florin and Rhoades teach wherein the viewer interaction causes display of instructions to solicit information necessary to place the order (Florin: requesting PIN from user, col. 24, lines 29 - 32).

As per claims 70, 89, 108 and 127, The combination of Florin and Rhoades teach wherein the information is solicited using one or more of an on-screen display and voice instructions (Florin: requesting PIN, col. 24, lines 29 – 32 Fig. 49, 420).

As per claims 71, 90, 109, 128 and 249, The combination of Florin and Rhoades teach wherein the viewer interaction is by way of a single command (Florin: pressing the select button, col. 23, lines 56 - 61).

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As per claims 72, 91, 102, 110, 129, 140 and 250, The combination of Florin and Rhoades teach wherein the single command is selected from the group consisting of: selecting of a single button (Florin: pressing the select button, col. 23, lines 56 - 61); and pressing of a single button on a TV remote control.

As per claims 73, 92, 103, 111, 130, 141 and 251, The combination of Florin and Rhoades teach wherein causing the order to be placed is achieved by using: information related to the item and viewer related personal information (Florin: sending order to headend, col. 9, lines 9 - 12).

As per claims 74, 93, 112 and 131, The combination of Florin and Rhoades teach wherein the personal information includes at least one of the group consisting of the viewer's name, address, method of payment and payment account number (Florin: confirming order and delivery time, col. 24, lines 40 - 41).

As per claims 75, 94, 113, 132 and 252, The combination of Florin and Rhoades teach wherein the personal information is stored in memory at the client (Florin: memory, col. 9, line 65 – col. 10, line 1).

As per claims 76 and 114, The combination of Florin and Rhoades teach wherein the system further includes a local computer in communication with the client and associated storage and wherein the method further comprises:

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using the client to retrieve information from one or more of the local computer and the associated storage (Florin: external CD-ROM, col. 10, lines 13 - 17)

As per claims 77 and 115, The combination of Florin and Rhoades teach wherein the method further comprises: controlling the client by means of the local computer (Florin: external CD-ROM, col. 10, lines 13 - 17).

As per claims 78 and 116, The combination of Florin and Rhoades teach wherein the local computer is part of a local area network (Florin: external CD-ROM, col. 10, lines 13 - 17).

As per claims 82, 97, 120 and 135, The combination of Florin and Rhoades teach further comprising:

sending an order confirmation to the user to confirm the order (Florin: order confirmation, col. 24, lines 40 - 41)

As per claims 83, 98, 104, 121, 136 and 142, The combination of Florin and Rhoades teach wherein the server is configured to provide data in a series of multiplexed packets, ones of which contain data representing the video, and others of which represent the computing application (Florin: sending video and data to users, col. 10, lines 32 – 44, col. 8, line 52 - col. 9, line 4).

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As per claims 85, 99, 123 and 137, The combination of Florin and Rhoades teach wherein the client includes a client computer and an auxiliary processor, the method comprising:

using the auxiliary data processor to process data representing the video, and using the client computer to execute the computing application (Florin: processing, col. 8, line 52 – col. 9, line 13).

As per claims 86, 100, 124 and 138, The combination of Florin and Rhoades teach wherein the client computer and the auxiliary data processor are contained in a set top box (Florin: transceiver 54, col. 8, line 1)

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 79 -81, 95 – 96, 117 – 119 and 133 – 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin, patent number: 5 583 560 in view of Rhoades, patent number: 5 181 107 in further view of Coddington, patent number: 5 410 343.



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As per claims 79 -81, 95 – 96, 117 – 119 and 133 – 134, The combination of Florin and Rhoades teach an interactive system that transmits video and data to a client and allows the client to order products.

The combination does not teach a system that transmits the user's orders through a telephone system.

In an analogous art, Coddington teaches a system that communicates with the server through a telephone system (ADSL and PSTN systems, col. 6, lines 11 - 47)

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Florin and Rhoades by including a communication system based on telephone infrastructure, as described in Coddington's VOD system, for the advantages of making the system compatible with one way transmission systems.

6. Claims 84, 105, 122 and 143 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin, patent number: 5 583 560 in view of Rhoades, patent number: 5 181 107 in further view of Banker, patent number: US 5 485 221.

As per claims 84, 105, 122 and 143, The combination of Florin and Rhoades teach an interactive system that transmits video and data to a client and allows the client to order products.

The combination does not teach a system that transmits the data multiple times.

In an analogous art, Banker teaches wherein the computing application is repetitively transmitted during times that the video is transmitted (repeatedly transmitting data, col. 17, lines 40 - 47).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Florin and Rhoades by retransmitting data to a user, as described by Banker's television system, for the advantages of ensuring correct reception of data.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/  
Examiner, Art Unit 2623

/Annan Q Shang/  
Primary Examiner, Art Unit 2623